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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,482	08/31/2001	Carl Brock Brandenburg	0590MH-40404-A	2351

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EXAMINER

TRAN, MYLINH T

ART UNIT PAPER NUMBER

2179

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/944,482	Applicant(s) BRANDENBERG ET AL.	
	Examiner Mylinh Tran	Art Unit 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's Amendment filed 06/19/06 has been entered and carefully considered. Claims 6, 10-13, 15-16 and 18 have been amended. Claims 19-23 have been added. However, the limitations of the amended and new claims have not been found to be patentable over prior art of record. Therefore, claims 6-21 are rejected under the same ground of rejection as set forth in the Office Action mailed (12/13/05).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 6-17 and 19-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Abecassis [US. 6,504,990].

As per claim 6, Abecassis teaches a computer implemented method and corresponding system for automatically selecting at least one of a plurality of content items for presentation comprising the steps/means:

determining a current context of said device, wherein said context has at least one dimension; (video map is considered as a current context which has a location dimension, column 33, line 60 through column 34, line 7); automatically determining a relevancy value for each element of said set of content items with respect to said current context (col. 34, lines 64-65, content preferences are considered as relevancy values); automatically generating a probability value for each element of said set of content items from said relevancy values (e.g., col. 35, lines 35-44); probabilistically selecting at least one of said plurality of content items in accordance with each items probability value (e.g., col. 35, lines 45-52); and presenting said at least one selected content item to said user through said device (e.g., col. 34, lines 7-18).

As per claims 7 and 8, Abecassis teaches said presenting step comprises display of and playing said at least one selected content item (e.g., col. 34, lines 7-18).

As per claim 9, Abecassis teaches said presenting step comprises playback of said at least one selected content item (e.g., col. 34, lines 7-18).

As per claim 10, Abecassis teaches said step of determining said relevancy value comprises the steps of:

comparing said current context of said device with at least one contextual sensitivity for each element of said set of content items, wherein said contextual sensitivity includes values for one or more dimensions of context (e.g., col. 33,

line 60 - col. 34, line 12); and combining the results of each of said comparisons to generate a relevancy value (content coding; e.g., col. 33, line 60 - col. 34, line 12).

As per claim 11, Abecassis teaches said dimensions of context include personal interests such as likes and dislikes inferred from the characteristics of content item ratings (e.g., col. 24, lines 46-53).

As per claim 12, Abecassis teaches the personal interests being derived from a user's rating history (e.g., col. 16, line 65 - col. 17, line 5).

As per claim 13, Abecassis teaches generating said probability value comprises the step of mapping said relevancy value to an unadjusted probability value (e.g., col. 35, lines 25-44).

As per claim 14, Abecassis teaches mapping step comprises a non-linear mapping (e.g., the randomness of the playing of multiplay segments may be established with respect to any number of different probabilities; col. 35, lines 25-44).

As to claims 15-16, Abecassis also teaches adjusting the unadjusted probability value to generate an adjusted probability value and suppressing the unadjusted probability values of content items having similar, unadjusted probability values to generate the adjusted probability value (column 34, lines 1-13, the viewer-selected content preference (probability value) has to be an adjusted probability value because the value is compared with a content coding of any segments).

As per claim 17, Abecassis teaches the content items comprise interactive multimedia (col. 34, lines 27-39).

As per claim 19, Abecassis also teaches the context of said device comprising the location of the device on the Earth (column 1, line 46 through column 2, line 20).

As to claim 20, Abecassis shows the context of said device comprising a time of day applicable to said device (column 17, lines 6-17).

As to claim 21, Abecassis also shows the context of said device comprising a measurement of proximity to one or more selected locations (column 17, lines 6-17).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the

applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Abecassis in view of Becker et al.[US. 5930803].

As per claim 18, Abecassis does not explicitly disclose the step of probabilistically selecting comprises summing the probability values of said plurality of content items; segmenting the range from zero to said sum into consecutive ranges, the number of said ranges being equal to the number of content items, each range having a length equal to the probability value of a corresponding content item; generating a random value in the range from zero to said sum; and selecting the content item corresponding to the range containing said random value. Becker teaches in detail the step of probabilistically selecting at column 9, lines 37-56. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the teaching from Becker of the step of probabilistically selecting in Abecassis's system since it would have increased the probability to select the best content item.

Allowable Subject Matter

Claims 22-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Regarding to claims 6 and 10, Applicant has argued Abecassis does not teach or suggest the "context" of the device considered such as its location, time of day. Applicant also argues the method of claim 6 begins by characterizing aspects of the environment, while Abecassis begins by characterizing aspects of the content.

The examiner respectfully disagrees because the video map is considered as a current context which has a location dimension as cited at column 33, line 60 through column 34, line 7; Content preferences are considered as relevancy values as cited at col. 34, lines 64-65.

Besides, the claimed language itself "determining a current context of the device, wherein the context has at least one dimension" is not specific and clear enough to describe the present invention as described in the specification. The context includes geographic location and time of day dimension while they are not in the claim language.

The Applicant does not specify the invention in the claimed language. The claimed language "wherein the context has at least one dimension" is a broad term. It does not specify the invention. They are not clearly enough to describe the original specification.

During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims

are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In *re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

Applicant also argues that the prior art fails to teach or suggest a relevancy value being calculated for each item in the set of content items, giving “k” different values for a set of “k” items. However, the feature is not in the claim language. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding to claims 13-16, Applicant argues Abecassis does not teach or suggest the concept of mapping the probability values to adjusted probability values. However, the examiner respectfully disagrees because the viewer-selected content preference (probability value) has to be an adjusted probability value because the value is compared with a content coding of any segments. The probability value has to be coded in order to compare with the content coding of any segments.

Regarding claims 18, Applicant’s attention is directed to column 9, lines 37-55 of Becker as cited “The conditional probability P being determined based on

record counts made with respect to the training set...A mapping module then maps each calculated normalized conditional probability to a respective pie slice". Becker clearly teaches a selecting one of a plurality of items based on previously calculated probabilities.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mylinh Tran. The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM at 571-272-4141.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo, can be reached at 571-272-4847.

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

571-273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mylinh Tran

Art Unit 2179



WEILUN LO
SUPERVISORY PATENT EXAMINER